

Katherine Eskovitz (CA Bar No. 255105)
Brianna Pierce (CA Bar No. 336906)
ROCHE FREEDMAN LLP
1158 26th Street, Suite 175
Santa Monica, CA 90403
Email: keskovitz@rochefreedman.com
bpierce@rochefreedman.com

Constantine P. Economides (pro hac vice)
(Florida Bar No. 118177)
ROCHE FREEDMAN LLP
1 SE 3rd Avenue, Suite 1240
Miami, FL 33131
Tel: (305) 971-5943
Email: ceconomides@rochefreedman.com

Joseph M. Delich (pro hac vice)
ROCHE FREEDMAN LLP
(NY Bar No. 5487186)
99 Park Avenue, Suite 1910
New York, NY 10016
Tel: (646) 970-7541
Email: jdelich@rochefreedman.com

Counsel for Plaintiff,
Ariel Abittan

Craig A. Hansen (SBN 209622)
Email: craig@hansenlawfirm.net
Stephen C. Holmes (SBN 200727)
Email: steve@hansenlawfirm.net
Philip E. Yeager (SBN 265939)
Email: phil@hansenlawfirm.net
Collin D. Greene (SBN 326548)
Email: collin@hansenlawfirm.net
HANSEN LAW FIRM, P.C.
75 E. Santa Clara Street, Suite 1250
San Jose, CA 95113-1837
Telephone: (408) 715 7980
Facsimile: (408) 715 7001

Counsel for Defendants,
Temujin Cayman and
the individual defendants

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

ARIEL ABITTAN

PLAINTIFF,

v.

LILY CHAO ET AL.,

DEFENDANTS,

and

EIAN LABS INC.,

NOMINAL DEFENDANT.

Case No.: 5:20-CV-09340-NC

**STIPULATION AND JOINT REQUEST
TO CONTINUE CASE MANAGEMENT
CONFERENCE AND RELATED
DEADLINES; [PROPOSED] ORDER**

Judge: Hon. Nathanael M. Cousins

Pursuant to Fed. R. Civ. P. 16 & 26(f) and Civil Local Rules 6-1, 6-2, 16-9 and 16-10, defendants Temujin Labs Inc., a Cayman corporation (“Temujin Cayman”), Lily Chao (a/k/a Tiffany Chen, a/k/a Yuting Chen) (“Chao”) and Damien Ding (a/k/a Damien Leung, a/k/a Tao Ding) (“Ding”) (collectively “Defendants”)¹ and plaintiff Ariel Abittan (“Plaintiff”) by and through their respective counsel, stipulate and request as follows:

WHEREAS, Plaintiff commenced this action on December 24, 2020;

WHEREAS, a Case Management Conference is currently set for one week from today, i.e., November 17, 2021;

WHEREAS, Defendants believe a short continuance of the Case Management Conference by 28 days to December 8, 2021, is appropriate for the reasons set out below.

WHEREAS, the parties understand that, absent a continuation of the Case Management Conference, a Joint Case Management Statement would be due today, November 10, 2021;

WHEREAS, the parties understand and appreciate that the instant request is out of time under Civil L.R. 6-1(b);

WHEREAS, pursuant to Civil L.R. 6-2(a)(1), Defendants “set forth with particularity, the following reasons for the requested enlargement [] of time” as follows:

1. Undersigned counsel for Defendants was recently retained to substitute for Defendants’ prior counsel, Culhane Meadows PLLC for the instant civil action, and submitted the Notice of Change of Counsel on October 15, 2021 (Dkt. 98). Counsel for the Defendants is in the process of getting up to speed as quickly as possible on this matter. See accompanying Declaration of Craig Hansen in support of the present Stipulation and Request (hereafter “Hansen Decl.”) ¶ 2.

2. Pursuant to this Court’s Order Setting Initial Case Management Conference and ADR Deadlines (“Scheduling Order”) (Dkt. 3), the parties must meet and confer regarding initial disclosures, early settlement, ADR process selection, and discovery plan no later than 21 days before the Case Management Conference. The parties must file a Case Management Statement pursuant to the Standing Order for All Judges of the Northern District of California regarding the Contents of

¹ Defendants do not concede the “a/k/a” aliases from the caption of Plaintiff’s complaint are correct. See e.g., Dkt. 74 (Chen Declaration)

1 Joint Case Management Statement no later than 7 days before the Case Management Conference.

2 Hansen Decl. ¶ 3.

3 3. Defendants' undersigned counsel understands that the Rule 26(f) conference has not
4 yet occurred and is already out of time. Defendants need to prepare positions and the parties' counsel
5 need to meet in order to satisfy Rule 26(f) sufficiently before deadlines relating to the Case
6 Management Statement and the Case Management Conference. Hansen Decl. ¶ 4.

7 4. Plaintiff's undersigned counsel submits that all meet and confer obligations were
8 satisfied in February 2021 or, at the latest, in August 2021, when Plaintiff's counsel conferred with
9 Defendants' then counsel, Fenwick & West LLP. Nevertheless, given the substitution of counsel, the
10 undersigned counsel for Plaintiff agrees that a conference between current counsel will be beneficial
11 for case management and expediency.

12 5. In light of the foregoing, Defendants request a short continuance to conduct a meet
13 and confer among current counsel for the undersigned regarding initial disclosures and a discovery
14 plan. Hansen Decl. ¶ 5.

15 6. The undersigned counsel for Defendants has sought and received Plaintiff's consent
16 to a relatively short continuance of the Case Management Conference, namely, from the current date
17 of November 17, 2021 to December 8, 2021. Under this proposal—which mirrors the Scheduling
18 Order—the parties must meet and confer regarding initial disclosures and a discovery plan by
19 November 17, 2021. The last day to file a Rule 26(f) Report, complete initial disclosures or state
20 objections in a Rule 26(f) Report, and the last day to file a Case Management Statement shall be
21 December 1, 2021. Hansen Decl. ¶ 6.

22 WHEREAS, pursuant to Civil L.R. 6-2(a)(2), Defendants "[d]isclose[] all previous time
23 modifications in the case, whether by stipulation or Court order" as follows:

24 7. On March 5, 2021, Dkt. 22, the Court continued the Initial Case Management
25 Conference set for March 17, 2021 to April 28, 2021. Hansen Decl. ¶ 7.

26 8. On April 21, 2021, Dkt. 44, the Court entered a Modified Order re 43 Stipulation
27 Setting Schedule and Extending Time to Respond. The Court continued the Case Management
28 Conference set for April 28, 2021 to July 7, 2021. Hansen Decl. ¶ 8.

1 9. On June 28, 2021, Dkt. 67, the Clerk issued a Notice continuing the Case
2 Management Conference set for July 7, 2021 to July 28, 2021. Hansen Decl. ¶ 9.

3 10. On July 19, 2021, Dkt. 79, the Clerk issued a Notice continuing the Case
4 Management Conference set for July 28, 2021 to October 6, 2021. Hansen Decl. ¶ 10.

5 11. On September 29, 2021, Dkt 90, the Court granted the parties' Stipulation and Joint
6 Request to Continue the Case Management Conference set for October 6, 2021 to November 17,
7 2021. Hansen Decl. ¶ 11.

8 WHEREAS, pursuant to Civil L.R. 6-2(a)(3), Defendants "[d]escribe[] the effect the
9 requested time modification would have on the schedule for the case" as follows:

10 12. The undersigned counsel for Defendants understands that no discovery has been
11 served in this action, and therefore no discovery deadlines would be affected. Hansen Decl. ¶ 12.

12 13. As there has not yet been a Case Management Conference, the undersigned counsel
13 understands no other deadlines in this civil action have been established. Hansen Decl. ¶ 13.

14 14. By continuing the Case Management Conference by 28 days, the parties estimate that
15 essentially all future dates in the case may be pushed back by approximately 28 days.

16 WHEREAS Temujin Cayman and the individual defendants submit this stipulation and
17 request for enlargement of time without prejudice to their rights and waive no arguments with
18 respect to service and jurisdiction.²

19
20 IT IS ACCORDINGLY STIPULATED, pursuant to Civil L.R. 6-1 and Civil L.R. 6-2, by and
21 between Defendants and Plaintiff, that the parties jointly request an Order that the Court continue the
22 Case Management Conference from the current date of November 17, 2021 to December 8, 2021.

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25 ² Plaintiff contends that despite Temujin Cayman, Chao, and Ding's belated reservation of rights,
26 Plaintiff submits that Chao and Ding previously appeared in this action by filing a Stipulation and
27 Joint Request to Continue the Case Management Conference (Dkt. 89), which was not filed as a
28 special appearance, and which did not reserve any rights or arguments with respect to service or
jurisdiction. Plaintiff objects to the inclusion of this paragraph, and reserves all rights and arguments
stemming from Chao, Ding, and Temujin Cayman's general appearance in this matter. Defendants
disagree with Plaintiff's contentions.

1
2 DATED: November 10 , 2021

HANSEN LAW FIRM, P.C.

3
4 By: /s/ Craig A. Hansen
Craig A. Hansen

5
6 DATED: November 10 , 2021

ROCHE FREEDMAN PLLC

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8 By: /s/ Constantine P. Economides
Constantine P. Economides

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11 I hereby attest that I obtained consent in the filing of this document from each of the other
12 signatories on this e-filed document.

13 DATED: November 10 , 2021

HANSEN LAW FIRM, P.C.

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15 By: /s/ Craig A. Hansen
Craig A. Hansen
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[PROPOSED ORDER]

IT IS ORDERED THAT:

The above Stipulation and Joint Request of counsel to continue the Case Management Conference from the current date of November 17, 2021 to December 8, 2021 at ____ AM/PM, is GRANTED. The parties shall meet and confer regarding initial disclosures and a discovery plan by November 17, 2021. The last day to file a Rule 26(f) Report, complete initial disclosures or state objections in a Rule 26(f) Report, and the last day to file a Case Management Statement pursuant to the Standing Order for All Judges of the Northern District of California regarding the Contents of Joint Case Management Statement shall be December 1, 2021.

DATED: _____

Hon. Nathanael M. Cousins
United States Magistrate Judge